

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GREGORY MANGO,

Plaintiff,

v.

DEMOCRACY NOW! PRODUCTIONS, INC.,

Defendant.

Case No.: 1:18-cv-10588-DLC

**DECLARATION OF THOMAS MONAHAN IN SUPPORT OF DEFENDANT'S
MOTION FOR AN ORDER REQUIRING PLAINTIFF TO POST A BOND**

I, Thomas M. Monahan, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am an associate with Sheppard, Mullin, Richter & Hampton LLP, attorneys of record for Defendant Democracy Now! Productions, Inc. ("Democracy Now"). I have personal knowledge of the facts set forth herein and, if called as a witness, could and would competently testify thereto.

2. This declaration is submitted in support of *Defendant's Motion for an Order Requiring Plaintiff to Post a Bond*.

3. Democracy Now is the defendant in the above-captioned action filed by Plaintiff Gregory Mango ("Plaintiff"), which alleges copyright infringement of a photograph of Kellyanne Conway and George Conway (the "Photograph").

4. After learning of this action, I arranged for a Google Images search for the Photograph to be conducted. Such a search locates websites or webpages on which an image appears. The search results indicated that the Photograph is widely used and available online. A true and correct copy of the first eight pages of Google search results for the Photograph are attached hereto as **Exhibit 1**.

5. Additionally, the Google search results indicated that the Photograph has appeared on at least one website purporting to offer it for free download and use. A true and correct copy of a cached version of that webpage is attached hereto as **Exhibit 2**.

6. On December 10, 2018, Democracy Now tendered an Offer of Judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure (“Rule 68 Offer”).

7. The Rule 68 Offer represented an amount that was five times Plaintiff’s typical photo licensing fee for editorial use, and included the estimated cost of Plaintiff’s attorneys’ fees incurred thus far.

8. That same day, Plaintiff rejected the Rule 68 Offer, demanding a sum several orders of magnitude more than any reasonable license fee. As of the date of this motion, Plaintiff has not accepted the Rule 68 Offer, which remains open by operation of Rule 68 until December 24, 2018.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 21st day of December, 2018.

/s/Thomas M. Monahan

Thomas M. Monahan